

**WEST VALLEY CITY, UTAH**

**ORDINANCE NO. 12-45**

Draft Date: 10/29/2012

Date Adopted: 11/27/2012

Date Effective: 12/06/2012

**AN ORDINANCE ENACTING CHAPTER 36 OF TITLE 17,  
BUSINESS LICENSE ORDINANCE, OF THE WEST  
VALLEY CITY MUNICIPAL CODE REGARDING RETAIL  
TOBACCO SPECIALTY BUSINESSES.**

**WHEREAS**, the 2012 General Session of the Utah State Legislature enacted House Bill 95, “Retail Sale of Tobacco Products” to restrict the location of retail tobacco specialty businesses, and to require municipalities to issue specific business licenses to these establishments;

**WHEREAS**, West Valley City wishes to amend its ordinances to reflect these changes in State law regarding retail tobacco specialty businesses;

**WHEREAS**, West Valley City desires to enact Chapter 36 of Title 17 of the West Valley City Municipal Code regarding retail tobacco specialty businesses; and

**WHEREAS**, the City Council of West Valley City, Utah, does hereby determine that it is in the best interests of the health, safety, and welfare of the citizens of West Valley City to enact Chapter 36 of Title 17 of the West Valley City Municipal Code;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of West Valley City, Utah, as follows:

**Section 1. Repealer.** Any provision of the West Valley City Municipal Code found to be in conflict with this Ordinance is hereby repealed.

**Section 2. Enactment.** Chapter 36 of Title 17 of the West Valley City Municipal Code is hereby enacted as follows:

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**TITLE 17**

**BUSINESS LICENSE ORDINANCE**

- Chapters:
- 17-1 General Provisions
  - 17-2 Alcoholic Beverage Licenses
  - 17-3 Denial, Suspension or Revocation of a License
  - 17-4 Base Fees and Bonding
  - 17-5 Employees of Alcohol Establishments
  - 17-6 Swap Meets
  - 17-7 Massage Establishments
  - 17-8 Public Recreation
  - 17-9 Restaurants
  - 17-10 Ambulances, Emergency Medical Service Providers and Special Transportation Providers
  - 17-11 Service Stations
  - 17-12 Taxi Services
  - 17-13 Burglar and Robbery Alarm Systems
  - 17-14 Auctions and Auctioneers
  - 17-15 Bicycle Shops
  - 17-16 Christmas Tree Business
  - 17-17 Employment Agency
  - 17-18 Locksmithing
  - 17-19 Liquidation and Fire or Damaged Goods Sales
  - 17-20 Mobile Home Parks and Trailer and Auto Courts
  - 17-21 Outdoor Advertisers
  - 17-22 Residential Solicitation
  - 17-22A Vending
  - 17-23 Pawn Shops, Secondhand Dealers, etc.
  - 17-24 Sale and Use of Fireworks
  - 17-25 Amusement Halls and Arcades
  - 17-26 Sexually-oriented Businesses
  - 17-27 Auto Wreckers
  - 17-28 Towing Services
  - 17-29 Civil Rights
  - 17-30 Innkeepers
  - 17-31 Rental Dwelling Units
  - 17-32 Private Investigators
  - 17-33 Parking Services
  - 17-34 Permanent Cosmetics
  - 17-35 Temporary Businesses
  - 17-36 Retail Tobacco Specialty Businesses
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65 **CHAPTER 17-36**

66 **RETAIL TOBACCO SPECIALTY BUSINESSES**

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68 **Sections:**

69 **17-36-101. Definitions.**

70 **17-36-102. License Required.**

71 **17-36-103. Zoning Requirements.**

72 **17-36-104. Exemptions.**

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74 **17-36-101. DEFINITIONS.**

75 **(1) As used in this Chapter:**

76 **(a) "Retail Tobacco Specialty Business" means a commercial establishment in which:**

77 **(i) the sale of Tobacco Products accounts for more than 35% of the total annual**  
78 **gross receipts for the establishment;**

79 **(ii) food and beverage products, excluding gasoline sales, are less than 45% of the**  
80 **total annual gross receipts for the establishment; and**

81 **(iii) the establishment is not licensed as a pharmacy under Title 58, Chapter 17b**  
82 **Utah Code Annotated, Pharmacy Practice Act.**

83 **(b) "Tobacco Product" means:**

84 **(i) any cigar, cigarette, or electronic cigarette as defined in Utah Code Annotated**  
85 **Section 76-10-101;**

86 **(ii) a tobacco product as defined in Utah Code Annotated Section 59-14-102 ,**  
87 **including:**

88 **(A) chewing tobacco; or**

89 **(B) any substitute for a tobacco product, including flavoring or additives**  
90 **to tobacco; and**

91 **(iii) tobacco paraphernalia as defined in Utah Code Annotated Section 76-10-**  
92 **104.1.**

94 **17-36-102. LICENSE REQUIRED.**

95 It shall be unlawful for any person to operate a Retail Tobacco Specialty Business  
96 without meeting the requirements of this Code, obtaining a West Valley City business license,  
97 and paying the licensing fee required by the Consolidated Fee Schedule.

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99 **17-36-103. ZONING REQUIREMENTS.**

100 A license to operate a Retail Tobacco Specialty Business shall not be issued on any  
101 property that does not meet all zoning requirements in this Code as may be applicable. The  
102 application shall be reviewed by the Planning and Zoning Division prior to issuance of a license.

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104 **17-36-104. EXEMPTIONS.**

105 (1) (a) In accordance with Subsection (1)(b), a Retail Tobacco Specialty Business that has a  
106 business license and is operating lawfully in the City on or before May 8, 2012, is  
107 exempt from the zoning requirements of this Code.

108 (b) A Retail Tobacco Specialty Business may maintain an exemption under Subsection

109 (1)(a) if:

110 (i) the business license is renewed continuously without relapse or permanent  
111 revocation;

112 (ii) the Retail Tobacco Specialty Business is not closed for business or otherwise  
113 suspends the sale of Tobacco Products for more than 60 consecutive days;

114 (iii) the Retail Tobacco Specialty Business does not substantially change the  
115 business premises or its business operation; and

116 (iv) the Retail Tobacco Specialty Business maintains the right to operate under the  
117 terms of other applicable laws, including zoning ordinances, building codes,  
118 and the business license ordinance, prior to May 8, 2012.

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**Section 3. Severability.** If any provision of this Ordinance is declared to be invalid  
by a court of competent jurisdiction, the remainder shall not be affected thereby.

**Section 4. Effective Date.** This Ordinance shall take effect immediately upon  
posting in the manner required by law.

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WEST VALLEY CITY

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MAYOR

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ATTEST:

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CITY RECORDER